

P R E S E N T:

Hon.

Justice

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
H.G.S. an Infant by his Father and Natural Guardian Bradford  
Sussman, and BRADFORD SUSSMAN Individually,

Plaintiffs,

-against-

SUNNY HEALTH AND FITNESS, AMAZON.COM, INC.  
AND AMAZON.COM SERVICES LLC,

Defendants.  
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**INFANT COMPROMISE  
ORDER**

Civil Action No.: 7:23-cv-  
01344

Upon the reading and filing of the Affidavit of BRADFORD SUSSMAN as Father and Natural Guardian of H.G.S., duly verified and acknowledged on July 19, 2023; the Declaration of their counsel, JESSE YOUNG, ESQ., duly verified and acknowledged on July 19, 2023; and upon all of the pleadings, proceedings, and exhibits heretofore had herein, and the Court having given due deliberation thereto, and it appearing that the proposed settlement and compromise is in the best interest of the infant-plaintiff, H.G.S.;

NOW, upon the application of SHLIVKO GIANCOLA LLC, Counsel for BRADFORD SUSSMAN and the infant-plaintiff H.G.S. herein, it is:

ORDERED, that BRADFORD SUSSMAN, as Father and Natural Guardian of H.G.S., is permitted to enter into a compromise of the causes of action brought on behalf of the infant plaintiff against defendants SUNNY HEALTH AND FITNESS, AMAZON.COM, INC. AND AMAZON.COM SERVICES LLC, for the injuries suffered by the infant plaintiff, H.G.S., as a result of alleged strict products liability, negligence, and breach of warranty for the total sum of

ONE HUNDRED THOUSAND DOLLARS (\$100,000.00); and it is further

ORDERED, that BRADFORD SUSSMAN, as Father and Natural Guardian of H.G.S., is authorized to execute and deliver to defendants SUNNY HEALTH AND FITNESS, AMAZON.COM, INC. AND AMAZON.COM SERVICES LLC, and/or their attorneys a Settlement Agreement & Release, and any and all other necessary instruments required to effectuate the settlement and compromise, thereby releasing all claims which the plaintiffs have brought against defendants SUNNY HEALTH AND FITNESS, AMAZON.COM, INC. AND AMAZON.COM SERVICES LLC, and to execute and deliver a Stipulation of Discontinuance with Prejudice and without costs, interest or disbursements, discontinuing all causes of action alleged in the pleadings against SUNNY HEALTH AND FITNESS, AMAZON.COM, INC. AND AMAZON.COM SERVICES LLC, and it is further

ORDERED, that the legal fees be fixed for plaintiffs' attorney, SHLIVKO GIANCOLA LLC, and disbursements for legal services in connection with such claims to SHLIVKO GIANCOLA LLC, and be allowed as follows:

Total Settlement (Present Value/cost):	\$ 100,000.00
Disbursements	\$ 765.23
Net Recovery:	\$ 99,234.77

Attorney Fee:

Calculated as follows after deduction for disbursements:

33.33 %	\$ 33,078.26
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Net Sum to Infant	\$ 66,156.51
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ORDERED, that that the following attorney's fee and disbursements shall be made payable in up-front cash payments by defendants SUNNY HEALTH AND FITNESS, AMAZON.COM, INC. AND AMAZON.COM SERVICES LLC, to SHLIVKO GIANCOLA LLC, within 20 days,

after service of this Order, and the following documents signed by or on behalf of the Plaintiff: Settlement Agreement and Release incorporating the terms of the payments as set forth below, a General Release, Hold Harmless Agreement, and Stipulation of Discontinuance with Prejudice:

- (i) Disbursements totaling \$765.23
- (ii) Attorney fees totaling \$33,078.26, and;

ORDERED, that the sum of \$ 66,156.51 shall be paid to MetLife Assignment Company, Inc. to fund the deferred benefits portion of the settlement as more fully set forth in this Order; and it is further

ORDERED, that the deferred benefits portion of the settlement (the “Periodic Payments”) shall be payable to H.G.S., individually as follows:

- \$20,000.00 guaranteed lump sum payable at age 18 on February 7, 2035
  - \$25,000.00 guaranteed lump sum payable at age 21 on February 7, 2038
  - \$30,000.00 guaranteed lump sum payable at age 25 on February 7, 2042
  - \$78,000.00 guaranteed lump sum payable at age 30 on February 7, 2047; and
- it is further

ORDERED, that the projected funding date of the Periodic Payments set forth herein is September 15, 2023. In the event the Periodic Payments are not funded on or before that date, the amounts and/or timing of the payments may be changed without need for further Court approval. Any changes to the payment amounts and/or timing shall be reflected in the Settlement Agreement and Release and the Qualified Assignment documents which are to be executed by the parties; and it is further

ORDERED, that any Periodic Payments to be made after the death of H.G.S. shall be made to such person or entity as shall be designated in writing by H.G.S. to the Assignee upon reaching the age of majority. If no person or entity is so designated by H.G.S., or if the person designated is not living at the time of H.G.S.’s death, then such payments shall be made to the Estate H.G.S.

ORDERED, that Defendants and/or Insurer (Assignor) will hereby assign to MetLife Assignment Company (the “Assignee”) through a Qualified Assignment under § 130 (c) of the Internal Revenue Code, the obligation to make the Periodic Payments; and it is further

ORDERED, that Metropolitan Tower Life Insurance Company shall issue an Evidence of Guarantee of the obligations assumed by the Assignee; and it is further

ORDERED, that Defendants and/or Insurer shall fund the obligation assumed through the purchase of an annuity policy from Metropolitan Tower Life Insurance Company (the “Annuity Issuer”) licensed to do business in New York and rated “A+” by A.M. Best rating agency; and it is further

ORDERED, that the future Periodic Payments cannot be accelerated, deferred, increased or decreased by Plaintiffs or any Payee and no Payee shall have the right or power to sell, encumber, assign or transfer the above-mentioned future Periodic Payments; and it is further

ORDERED, that BRADFORD SUSSMAN, as Father and Natural Guardian of H.G.S., be, and he hereby is, directed, authorized and empowered to execute such releases and other ancillary documents reasonably required to effectuate the settlement; and it is further

ORDERED, that upon making and receipt of all of the payments above directed in compliance with this Order, inclusive of attorneys’ fees and disbursements, in the respective amounts as set forth above, for a total settlement of \$100,000.00, the defendants SUNNY HEALTH AND FITNESS, AMAZON.COM, INC. AND AMAZON.COM SERVICES LLC, will have fully satisfied their obligations to both the plaintiff and the infant plaintiff and shall then be discharged from any and all responsibility as to any and all claims set forth in this action.

] SO ORDERED.

]  8/2/23  
CATHY SEIBEL, U.S.D.J.